IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5927 OF 2005

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMKRISHNA AGENCY - H.U.F.THROGH ITS KARTA

Versus

THE COLLECTOR

(OFFICIAL LIQUIDATOROF CONTINENTAL MILLS CO.LTD.)

Appearance:

1. Special Civil Application No. 5927 of 2005

MR. M.B. GANDHI for Petitioners

MR. B.K. DAMANI for Petitioners

MS. D.S. PANDIT, AGP for Respondent

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/05/2005

ORAL JUDGEMENT

1. Rule.

Ms.D.S.Pandit, learned AGP, appears and waives service of Rule on behalf of the respondent.

2. By way of this petition, the petitioner has challenged the order dated 31st December, 2004 passed by the learned Judge, City Civil Court, Ahmedabad below Application-Exh.37 in Darkhast No.58 of 1998 whereby the application preferred by the petitioner was rejected with an observation that the darkhastdar shall be at liberty to file a fresh application on the same subject matter after joining the Ahmedabad District Collector and seeing that he may file his reply and presentation before the Court.

3. Having heard the learned Advocates for the parties and having perused the relevant documents on record, this Court is of the view that the trial Court ought to have directed the Collector to file reply instead of giving liberty to the applicant-petitioner to file a fresh application. In that view of the matter, the respondent is directed to file reply on or before 15th June, 2005 and/or if the reply is not filed, he will appear before the Court on the next date of hearing after reopening.

4. In the result, the petition is allowed. The impugned order dated 31st December, 2004 is quashed and set aside. The trial Court is directed to decide afresh the application of the petitioner on merits after affording an opportunity of hearing to both the petitioner and the Collector. Rule is made absolute to the aforesaid extent.

Office to send the writ of this order forthwith.

[K.S.Jhaveri, J.]
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